

BEFORE THE U.S. PATENT & TRADEMARK OFFICE
BOARD OF APPEALS AND INTERFERENCES

In re application of: **Batoff, Jeffrey**

Serial No.: **10/085,394**

Group Art Unit: **3627**

Filed: **February 28, 2002**

Examiner: **Zeender, Florian M.**

For: **INVENTORY CONTROL AND BALANCING SYSTEM**

Mail Stop Appeal Brief- Patents
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICANT'S BRIEF ON APPEAL

Sir:

This is an appeal from the Office Action dated April 3, 2007. Appellant, Jeffrey Batoff, respectfully submits that the rejections therein were in error, and should be overturned upon *de novo* review, for the reasons set forth herein.

I. The Real Party in Interest

The Real Party in Interest is Jeffrey Batoff, an individual residing in Penn Valley, Pennsylvania.

II. Related Appeals and Interferences

There are no related Appeals or Interferences.

III. The Status of the Claims

Claims 63-103, 105-110, 112, 113, 115, 116, 118-120 and 188-263 are pending in this application. Claims 63, 69, 87-90, 110, 112, 113, 115, 116, 118-120 and 188-263 stand rejected. Claims 64-68, 70-86, 91-103 and 105-109 have been withdrawn. Claims 1-62, 104, 111, 114, 117 and 121-187 have been canceled. The rejection of claims 63, 69, 87-90, 110, 112, 113, 115, 116, 118-120 and 188-263 is being appealed.

IV. The Status of Amendments

The amendment filed April 23, 2007 has been entered.

V. Summary of Claimed Subject Matter

With respect to claim 63, an embodiment of the invention can be a method of operating an electronic barter system for facilitating consumer to consumer bartering transactions. The method comprises a first consumer user (16, 18) listing item(s) (user A is listing books, cds, videos) on the electronic barter system. See FIGS. 1-3, page 13, line 1- page 15, line 13 of the Specification. In the method the electronic barter system determines and awards to the first consumer user (16, 18) an amount of barter credit for the listed item(s). See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The electronic barter system identifies at least one item that has been listed on the electronic barter system by other consumer user(s) that may be desirous to the first user (16, 18). See page 13, lines 1-9 and page 15, lines 3-12 of

the Specification. A first consumer may select a desired item via the electronic barter system (i.e. selecting the item to be gotten using the swap credits). The electronic barter system permits at least a portion of the barter credit to be used by the first consumer user toward the acquisition of the desired item. See page 13, lines 3-5 of the Specification. The electronic barter system permits the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user. See page 16, lines 1-8, and page 16, line 16-page 17, line 13 of the Specification. The electronic barter system communicates the request to the consumer user who listed the desired item that the consumer user who listed the desired item surrenders the desired item. See page 16, lines 9-15 of the Specification.

With respect to claim 188, an embodiment of the invention can be a method of operating an electronic barter system for facilitating consumer to consumer bartering transactions. The method involves having a first consumer user (16, 18) listing item(s) (user A is listing books, cds, videos) on the electronic barter system. See FIGS. 1-3, page 13, line 1- page 15, line 13 of the Specification. The electronic barter system determines and awards to the first consumer (16, 18) user an amount of barter credit for the listed item(s). See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The electronic barter system identifies at least one item that has been listed on the electronic barter system by other user(s) that may be desirous to the first consumer user (16, 18). See page 13, lines 1-9 and page 15, lines 3-12 of the Specification. The first consumer user selects a desired item via the electronic barter system (i.e. selecting the item to be gotten using the swap credits). The electronic barter system permits at least a portion of the barter credit to be used by the first consumer user toward the acquisition of the desired item. See page 13, lines 3-5 of the Specification. The electronic barter system permits the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user (16, 18). See page 16, lines 1-23 of the Specification. The electronic barter system determines at least one condition under which a consumer user must give up possession of an item (for example payment of swap credits). The electronic barter system communicates a request to the consumer user who listed the desired item that the consumer user who listed the desired item surrender the

desired item under the at least one condition that was determined by the electronic barter system. See page 16, lines 1-23 of the Specification.

With respect to claim 200, an embodiment of the invention can be a method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising: a first consumer user (16, 18) listing item(s) (user A is listing books, cds, videos) on the electronic barter system. See FIGS. 1-3, page 13, line 1- page 15, line 13 of the Specification. The electronic barter system determines and awards to the first consumer user an amount of barter credit for the listed item(s). See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The electronic barter system identifies at least one item that has been listed on said electronic barter system by other user(s) that may be desirous to the first consumer user. See page 13, lines 1-9 and page 15, lines 3-12 of the Specification. The first consumer user selects a desired item via the electronic barter system (i.e. selecting the item to be gotten using the swap credits). The electronic barter system permits at least a portion of the barter credit to be used by the first consumer user toward the acquisition of the desired item. See page 13, lines 3-5 of the Specification. The electronic barter system permits the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user. See page 13, line 1-page 15, line 12 of the Specification. The electronic system determines when a consumer user must give up possession of an item. See page 16, lines 9-15 of the Specification. A consumer user's unused credits are not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered. See page 13, line 1-page 15, line 12 of the Specification.

With respect to claim 212, an embodiment of the invention can be a method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising: a first consumer user (16, 18) listing item(s) (user A is listing books, cds, videos) on the electronic barter system. See FIGS. 1-3, page 13, line 1- page 15, line 13 of the Specification. The electronic barter system determines and awards to the first consumer user an amount of barter credit for the listed item(s). See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of

the Specification. The electronic barter system identifies at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to the first consumer user. See page 13, lines 1-9 and page 15, lines 3-12 of the Specification. The first user selects a desired item via the electronic barter system (i.e. selecting the item to be gotten using the swap credits). The electronic barter system permits at least a portion of the barter credit to be used by the first consumer user toward the acquisition of the desired item. See page 13, lines 3-5 of the Specification. The electronic barter system permits the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user. See page 13, line 1-page 15, line 12 of the Specification. A consumer user's unused credits are not required to be equal to the combined total credits of all inventory items entered by the user which have not been surrendered. See page 13, line 1-page 15, line 12 of the Specification.

With respect to claim 224 an embodiment of the invention can be a method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising: a consumer user (16, 18) entering one or more items to be swapped into an inventory of an electronic barter system (user A is listing books, cds, videos). See FIGS. 1-3, page 13, line 1- page 15, line 13 of the Specification. Only items listed in one or more lookup databases may be entered the electronic barter system then determines and awards to the consumer user an amount of barter credit for the listed item(s). See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The electronic barter system identifies to a first consumer user at least one item that has been listed on the electronic barter system that may be desirous to the first consumer user. See page 13, lines 1-9 and page 15, lines 3-12 of the Specification. The electronic barter system groups items of a particular kind together and offers to the first user only one available item of each particular kind, where the particular kind is determined by reference to said one or more lookup databases and where all items of a particular kind are assigned the same number of credits. See page 43, line 1- page 44, line 19 of the Specification. The first consumer user selects a desired item via the electronic barter system (i.e. selecting the item to be gotten using the swap credits). The electronic barter system permits at least a portion of the barter credit to be used by the first consumer user toward the acquisition of

the desired item. See page 13, lines 3-5 of the Specification. The electronic barter system permits the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user. See page 16, lines 1-8, and page 16, line 16-page 17, line 1 of the Specification.

With respect to claim 235 an embodiment of the invention can be a method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising: a first consumer user (16, 18) listing item(s) (user A is listing books, cds, videos) on the electronic barter system. See FIGS. 1-3, page 13, line 1- page 15, line 13 of the Specification. The electronic barter system determines and awards to the first consumer user an amount of barter credit for the listed item(s). See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The electronic barter system identifying at least one item that has been listed on said electronic barter system by other user(s) that may be desirous to said first consumer user. See page 13, lines 1-9 and page 15, lines 3-12 of the Specification. The first consumer user selects a desired item via the electronic barter system (i.e. selecting the item to be gotten using the swap credits). The electronic barter system permits at least a portion of the barter credit to be used by the first consumer user toward the acquisition of the desired item, wherein the first consumer user may acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user. See page 13, line 1-page 15, line 12 of the Specification.

With respect to claim 247 an embodiment of the invention can be a method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising: a first consumer user (16, 18) listing item(s) (user A is listing books, cds, videos) on the electronic barter system. See FIGS. 1-3, page 13, line 1- page 15, line 13 of the Specification. The electronic barter system determines and awards to the first consumer user an amount of barter credit for the listed item(s). See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The electronic barter system identifies at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first consumer user. See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the

Specification. The first user selects a desired item via the electronic barter system (i.e. selecting the item to be gotten using the swap credits). The electronic barter system permits at least a portion of the barter credit to be used by the first consumer user toward the acquisition of the desired item, the electronic barter system permits the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user. See page 13, line 1-page 15, line 12 of the Specification. The electronic barter system estimates the cost of postage required to ship the item. See Page 31, lines 5-21 of the Specification.

With respect to claim 250 an embodiment of the invention can be a method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising: a first consumer user (16, 18) listing item(s) (user A is listing books, cds, videos) on the electronic barter system. See FIGS. 1-3, page 13, line 1- page 15, line 13 of the Specification. The electronic barter system determines and awards to the first consumer user an amount of barter credit for the listed item(s). See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to the first consumer user. See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The first user selects a desired item via the electronic barter system. See page 13, line 1-page 15, line 12 of the Specification. The electronic barter system permits at least a portion of the barter credit to be used by the first consumer user toward the acquisition of the desired item. See page 13, line 1-page 15, line 12 of the Specification. The electronic barter system permits the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user. See page 13, line 1-page 15, line 12 of the Specification. The electronic system monitors user compliance with at least one consumer user obligation and the system determines whether the consumer user may continue using the system in response to the monitoring. See page 45, lines 1-13 of the Specification.

With respect to claim 253 an embodiment of the invention can be a method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising: a first consumer user (16, 18) entering one or more items to be swapped into an inventory of an electronic barter system (user A lists books, cds, videos). See FIGS. 1-3, page 13, line 1- page 15, line 13 of the Specification. Only items listed in one or more lookup databases may be entered, the electronic barter system then determines and awards to the first consumer user an amount of barter credit for the listed item(s). See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The electronic barter system identifies at least one item that has been listed on the electronic barter system by other consumer user(s) that may be desirous to the first consumer user. See page 15, lines 3-12 and page 42, line 4-page 44, line 19 of the Specification. The first consumer user selects a desired item via the electronic barter system. See page 13, line 1-page 15, line 12 of the Specification. The electronic barter system permits at least a portion of the barter credit to be used by the first consumer user toward the acquisition of the desired item. See page 13, line 1-page 15, line 12 of the Specification. The electronic barter system communicates a request to the consumer user who listed the desired item that the consumer user who listed the desired item surrenders said desired item. See page 13, line 1-page 15, line 12 of the Specification. A consumer user's unused credits is not required to be equal to the combined total credits of all inventory items entered by the consumer user which have not been surrendered. See page 13, line 1-page 15, line 12 of the Specification. The first consumer user may acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user. See page 13, line 1-page 15, line 12 of the Specification. The electronic barter system estimates the cost of postage required to ship the item. See Page 31, lines 5-21 of the Specification. The electronic system monitors consumer user compliance with at least one consumer user obligation and the system determines whether the consumer user may continue using the system in response to said monitoring. See page 45, lines 1-13 of the Specification.

VI. Grounds of Rejection to be Reviewed on Appeal

Appellant believes that the various issues to be considered on appeal may be concisely enumerated and summarized as follows:

Issue 1: Have claims 63, 69, 87-90, 110, 112, 113, 115, 116, 118-120 and 188-263 been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2204/0098317 to Postrel (hereinafter "Postrel")?

VII. Argument -- The Rejections and Appellant's Response

Issue 1: Have claims 63, 69, 87-90, 110, 112, 113, 115, 116, 118-120 and 188-263 been improperly rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2204/0098317 to Postrel (hereinafter "Postrel")?

1. Claim 63

Claim 63 is an independent claim and is reproduced as follows for the convenience of the Examiners-in-Chief:

63. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user;

the first consumer user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user; and

the electronic barter system communicating a request to the consumer user who listed the desired item that the consumer user who listed the desired item surrender said desired item.

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).” See MPEP 2143.03.

The Applicant’s invention is a system and method for facilitating consumer to consumer barter transactions using an electronic barter system where the system determines the valuation for goods entered into the system by a consumer. The invention is a way of ensuring immediate credit for a listed item so that the consumer can begin trading and taking part in the system immediately. This differs from current familiar methods and systems of online commerce that require a delay in time between the listing of items and the receipt of credit.

Postrel can be best described as a system and method for operating a reward points accumulation and redemption program. A user of the system in Postrel can have a number of credit cards that accumulate points when purchasing items or through the patronage of a

company's services (e.g. frequent flyer miles). The user in Postrel's system uses a trading server computer 20, shown in FIG. 4, to redeem earned points from the various redemption programs at one central location. This permits normally unused points to be effectively redeemed for merchandise.

As required in claim 63, the method and system of Postrel does not have "a first consumer user listing item(s) on the electronic barter system" or "the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user." Postrel simply does not have a consumer listing items to facilitate consumer to consumer commerce. The consumer in Postrel at no time lists an item for barter. Indeed, Postrel is not considering a system for barter or trading items. The consumer in Postrel is instead redeeming points obtained from using a particular credit system or perhaps airline services. At no time does the system in Postrel determine and award a consumer credit for an item listed for barter.

Additionally, Postrel does not have a system where "the electronic barter system determin[es] and award[s] to said first consumer user an amount of barter credit for said listed item(s)." The system and method disclosed by Postrel has a number of outside businesses that provide the credit [i.e. the awarding of points]. Indeed, the user in Postrel is not listing an item but is instead providing the means to access the points data that has already been awarded to him or her, so as to accumulate and use those points.

Therefore, Postrel does not teach or suggest each and every limitation of claim 63. For at least the above reasons claim 63 is in condition for allowance. Claims 69, 87-90, 110, 112, 113, 115, 116 and 118-120 are also in condition for allowance by virtue of their dependence upon an allowable base claim 63.

In the rejection, the Examiner glosses over many of the above noted distinctions and instead simply suggests that Postrel only differs from the claimed invention in that "users are not explicitly shown to be consumers." See Page 3, paragraph 2 of the Office Action. The Examiner further submits that it "would have been obvious to one of ordinary skill in the art at

the time the invention was made that the users could be consumers to enable direct consumer to consumer transfer of goods and services.” See Page 3, paragraph 2 of the Office Action.

“A statement that modifications of the prior art to meet the claimed invention would have been “well within the ordinary skill of the art at the time the claimed invention was made” because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). See also *In re Kotzab*, 217 F.3d 1365, 1371, 55

The Examiner fails to provide any reason why one of ordinary skill in the art would simply modify Postrel to suddenly enable consumer to consumer transaction, nor is it indicated how this modification would take effect. The Examiner simply states that it would have been “an obvious matter of design choice.” The Appellant respectfully submits that this is not an explanation or a legitimate rationale. Postrel takes those points awarded to a consumer in a transaction that occurred outside of the points accumulation system and finds a way to provide value for minimal amounts of points that would have otherwise gone unused. There is no real value to be had from the points accumulated in Postrel except the value that is provided by the organization or company that initially distributes the points based upon patronage. One would not be inclined to enable consumer to consumer transaction since such a transaction fails to account for underlying economics that govern the system of Postrel, which takes into consideration the wholesale accumulation of points and the necessary need for a mediation system. Even if one were to modify Postrel to enable user to user interaction, the system obtained would still not be that which is claimed. Instead one would have a system that would be exchanging points that had originally been accumulated outside of the system, instead of conducting transactions based upon credit awarded upon providing items for exchange to the system and having the system determine the respective value of the items.

For at least these additional reasons, a *prima facie* case for obviousness has not been established for claim 63.

2. Claim 69

Dependent claim 69 further recites that the system provides one or more incentives to a consumer user who purchases an item and lists the item. The Office Action suggests that this is shown on page 5, paragraph 51 and page 6 paragraph 53 of Postrel. These sections discuss time sensitive product offerings and other offers that may be provided by a retailer. There is no disclosure or suggestion of providing the incentive to a consumer who lists the item. There is no listing of items in Postrel by the user. For at least this additional reason claim 69 is in condition for allowance, as well as for being dependent upon the allowable claim discussed above.

3. Claim 87

Dependent claim 87 further recites wherein the system groups items of a particular kind together and offers to consumer users only one available item of each particular kind. The Office Action suggests that page 5, paragraph 47 of Postrel teaches this limitation. However that section of Postrel merely points out that merchandisers can list products that are redeemable for points. It does not indicate that a consumer can list a product and it doesn't suggest that only one listing of that product will be offered by the system. Indeed, it would appear in Postrel that multiple merchandisers can each list the same product, thereby providing multiple listings of that product. There the system of Postrel would not offer to consumers only one available item of each particular kind. Therefore, for at least this additional reason claim 87 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

4. Claim 88

Dependent claim 88 further recites that an item is determined to be of a particular kind by reference to the International Standard Book Number. Postrel has no mention of using ISBNs

and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 88 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

5. Claim 89

Dependent claim 89 further recites that an item is determined to be of a particular kind by reference to the Universal Product Code. Postrel has no mention of using UPCs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 89 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

6. Claim 90

Dependent claim 90 further recites that the one available item offered is the earliest one listed. This limitation is neither taught nor suggested by Postrel. The Office Action suggests that such a first in/ first out grouping of items would have been obvious, but provides no motivation or rationale for modifying Postrel to perform this activity. It also neglects the fact that Postrel does not limit listings to only one per item. This is improper grounds for rejection and for at least this additional reason claim 90 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

7. Claim 110

Dependent claim 110 further recites that listing an item creates no immediate obligation on the part of the consumer user to surrender the item. This limitation is neither taught nor suggested by Postrel. Postrel requires that listing the points will surrender the points. See FIG. 6 of Postrel. For at least this additional reason claim 110 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

8. Claim 112

Dependent claim 112 further recites that a consumer user's unused barter credit is not required to be equal to the combined barter credit of all inventory items listed by said consumer user which have not been surrendered. Postrel does not list anything for barter, therefore this limitation is not even touched upon or suggested in Postrel. In Postrel the total points remaining would have to be equal to the total initial points that were entered into the system by the user. See Paragraph [0031] of Postrel. For at least this additional reason claim 112 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

9. Claim 113

Dependent claim 113 further recites that the system determines when the consumer user must surrender an item. This limitation is neither taught nor suggested by Postrel since a user in Postrel does not list an item. For at least this additional reason claim 113 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

10. Claim 115

Dependent claim 115 further recites that a consumer user's unused barter credit is transferred to the system when said consumer user's account is closed. This limitation is neither taught nor suggested by Postrel. The Office Action states that performing such an activity would have been obvious; however the Office Action provides no rationale for why this would have been the case. This is an improper *prima facie* case for obviousness. For at least this additional reason claim 115 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

11. Claim 188

Independent claim 188 reads as follows:

188. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other user(s) that may be desirous to said first consumer user;

the first consumer user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user;

wherein the electronic barter system determines at least one condition under which a consumer user must give up possession of an item; and

the electronic barter system communicating a request to the consumer user who listed the desired item that the consumer user who listed the desired item surrender said desired item under the at least one condition that was determined by the electronic barter system.

Claim 188 is allowable for many of the same reasons that claim 63, discussed in subsection 1, was indicated as being allowable in view of Postrel. That is to say, Postrel does not disclose having “a first consumer user listing item(s) on the electronic barter system” or “the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user.” As discussed above, Postrel simply does not have a consumer listing items to facilitate consumer to consumer commerce. The consumer in Postrel at no time lists an item for barter. At no time does the system in Postrel determine and award a consumer credit for an item listed for barter.

Additionally, as noted above with respect to claim 63, Postrel does not have a system where “the electronic barter system determin[es] and award[s] to said first consumer user an amount of barter credit for said listed item(s).” The system and method disclosed by Postrel has a number of outside businesses that provide the credit [i.e. the awarding of points]. Indeed, the user in Postrel is not listing an item but is instead providing the means to access the points data that has already been awarded to him or her, so as to accumulate and use those points.

In addition to the limitations discussed above, Postrel also does not disclose the limitation of “wherein the electronic barter system determines at least one condition under which a consumer user must give up possession of an item; and the electronic barter system communicat[es] a request to the consumer user who listed the desired item that the consumer user who listed the desired item surrender said desired item under the at least one condition that was determined by the electronic barter system.” Since a user does not list an item in Postrel, the system cannot determine when an object that has not been listed should be surrendered. In Postrel merchants list products that are then sold to users or exchanged for their accumulated points. At no time does the user in Postrel have to surrender a listed item. Furthermore, the Office Action provides no rationale or reasoning as to why this limitation would be met by Postrel and merely points to Page 2, paragraph 16 and Page 4 paragraph 32 of Postrel. These paragraphs reference merchants and not users.

Therefore, Postrel does not teach or suggest each and every limitation of claim 188. For at least the above reasons claim 188 is in condition for allowance. Claims 189-199 are also in condition for allowance by virtue of their dependence upon an allowable base claim 63.

12. Claim 189

Dependent claim 189 further recites wherein the system groups items of a particular kind together and offers to consumer users only one available item of each particular kind. The Office Action suggests that page 5, paragraph 47 of Postrel teaches this limitation. However that section of Postrel merely points out that merchandisers can list products. It does not indicate that a consumer can list a product and it doesn't suggest that only one listing of that product will be offered by the system. Indeed, it would appear in Postrel that multiple merchandisers can each list the same product. There the system of Postrel would not offer to consumers only one available item of each particular kind. Therefore, for at least this additional reason claim 189 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

13. Claim 190

Dependent claim 190 further recites that an item is determined to be of a particular kind by reference to the International Standard Book Number. Postrel has no mention of using ISBNs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 190 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

14. Claim 191

Dependent claim 191 further recites that an item is determined to be of a particular kind by reference to the Universal Product Code. Postrel has no mention of using UPCs and the Office Action simply suggests that doing so would have been obvious without offering any

reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 191 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

15. Claim 192

Dependent claim 192 further recites that one available item offered is the earliest one entered into said inventory. This limitation is neither taught nor suggested by Postrel. The Office Action suggests that such a first in/ first out grouping of items would have been obvious, but provides no motivation or rationale for modifying Postrel to perform this activity. This is improper grounds for rejection and for at least this additional reason claim 192 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

16. Claim 193

Dependent claim 193 further recites that listing an item creates no immediate obligation on the part of the consumer user to surrender said item. This limitation is neither taught nor suggested by Postrel. Postrel requires that listing the points will surrender the points. See FIG. 6 of Postrel. For at least this additional reason claim 193 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

17. Claim 195

Dependent claim 195 further recites that a consumer user's unused barter credit is not required to be equal to the combined barter credit of all inventory items listed by the consumer user which have not been surrendered. Postrel does not list anything for barter; therefore this limitation is not even touched upon or suggested in Postrel. For at least this additional reason claim 195 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

18. Claim 196

Dependent claim 196 further recites that a consumer user's unused barter credit is transferred to the system when the consumer user's account is closed. This limitation is neither taught nor suggested by Postrel. The Office Action states that performing such an activity would have been obvious; however the Office Action provides no rationale for why this would have been the case. This is an improper *prima facie* case for obviousness. For at least this additional reason claim 196 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

19. Claim 200

Independent claim 200 reads as follows:

200. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other user(s) that may be desirable to said first consumer user;

the first consumer user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired

item the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user;

wherein the electronic system determines when a consumer user must give up possession of an item; and

wherein a consumer user's unused credits is not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered.

Claim 200 is allowable for many of the same reasons that claims 63 and 188, discussed in subsections 1 and 11 above, were indicated as being allowable in view of Postrel. That is to say, Postrel does not disclose having "a first consumer user listing item(s) on the electronic barter system" or "the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user." As discussed above, Postrel simply does not have a consumer listing items to facilitate consumer to consumer commerce. The consumer in Postrel at no time lists an item for barter. At no time does the system in Postrel determine and award a consumer credit for an item listed for barter.

Additionally, as noted above with respect to claims 63 and 188, Postrel does not have a system where "the electronic barter system determin[es] and award[s] to said first consumer user an amount of barter credit for said listed item(s)." The system and method disclosed by Postrel has a number of outside businesses that provide the credit [i.e. the awarding of points]. The user in Postrel is not listing an item but is instead providing the means to access the points data that has already been awarded to him or her, so as to accumulate and use those points.

In addition to the limitations discussed above, Postrel also does not disclose the limitation, also found in claim 188, of "wherein the electronic barter system determines at least one condition under which a consumer user must give up possession of an item." Since a user does not list an item in Postrel, the system cannot determine when an object that has not been

listed should be surrendered. In Postrel merchants list products that are then sold to users or exchanged for their accumulated points. At no time does the user in Postrel have to surrender a listed item. Furthermore, the Office Action provides no rationale or reasoning as to why this limitation would be met by Postrel and merely points to Page 2, paragraph 16 and Page 4 paragraph 32 of Postrel. These paragraphs reference merchants and not users.

Furthermore, Postrel does not disclose the limitation of “wherein a consumer user’s unused credits is not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered.” Postrel does not list anything for barter, therefore this limitation is not even touched upon or suggested in Postrel.

Therefore, Postrel does not teach or suggest each and every limitation of claim 200. For at least the above reasons claim 200 is in condition for allowance. Claims 201-211 are also in condition for allowance by virtue of their dependence upon an allowable base claim 200.

20. Claim 201

Dependent claim 201 further recites wherein the system groups items of a particular kind together and offers to consumer users only one available item of each particular kind. The Office Action suggests that page 5, paragraph 47 of Postrel teaches this limitation. However that section of Postrel merely points out that merchandisers can list products. It does not indicate that a consumer can list a product and it doesn’t suggest that only one listing of that product will be offered by the system. Indeed, it would appear in Postrel that multiple merchandisers can each list the same product. There the system of Postrel would not offer to consumers only one available item of each particular kind. Therefore, for at least this additional reason claim 201 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

21. Claim 202

Dependent claim 202 further recites that an item is determined to be of a particular kind by reference to the International Standard Book Number. Postrel has no mention of using ISBNs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 202 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

22. Claim 203

Dependent claim 203 further recites that an item is determined to be of a particular kind by reference to the Universal Product Code. Postrel has no mention of using UPCs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 203 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

23. Claim 204

Dependent claim 204 further recites that the one available item offered is the earliest one entered into said inventory. This limitation is neither taught nor suggested by Postrel. The Office Action suggests that such a first in/ first out grouping of items would have been obvious, but provides no motivation or rationale for modifying Postrel to perform this activity. This is improper grounds for rejection and for at least this additional reason claim 204 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

24. Claim 205

Dependent claim 205 further recites that listing an item creates no immediate obligation on the part of the consumer user to surrender said item. This limitation is neither taught nor suggested by Postrel. Postrel requires that listing the points will surrender the points. See FIG. 6 of Postrel. For at least this additional reason claim 205 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

25. Claim 207

Dependent claim 207 further recites that a consumer user's unused barter credit is transferred to the system when the consumer user's account is closed. This limitation is neither taught nor suggested by Postrel. The Office Action states that performing such an activity would have been obvious; however the Office Action provides no rationale for why this would have been the case. This is an improper *prima facie* case for obviousness. For at least this additional reason claim 207 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

26. Claim 212

Independent claim 212:

212. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first consumer user;

the first user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item;

the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user; and

where a consumer user's unused credits is not required to be equal to the combined total credits of all inventory items entered by said user which have not been surrendered.

Claim 212 is allowable for many of the same reasons that claims 63, 188 and 200 discussed in subsections 1, 11 and 19 above, were indicated as being allowable in view of Postrel. That is to say, Postrel does not disclose having "a first consumer user listing item(s) on the electronic barter system" or "the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user." As discussed above, Postrel simply does not have a consumer listing items to facilitate consumer to consumer commerce. The consumer in Postrel at no time lists an item for barter. At no time does the system in Postrel determine and award a consumer credit for an item listed for barter.

Additionally, as noted above with respect to claims 63, 188 and 200, Postrel does not have a system where "the electronic barter system determin[es] and award[s] to said first

consumer user an amount of barter credit for said listed item(s).” The system and method disclosed by Postrel has a number of outside businesses that provide the credit [i.e. the awarding of points]. Indeed, the user in Postrel is not listing an item but is instead providing the means to access the points data that has already been awarded to him or her, so as to accumulate and use those points.

Furthermore, Postrel does not disclose the limitation of “where a consumer user’s unused credits is not required to be equal to the combined total credits of all inventory items entered by said user which have not been surrendered.” Postrel does not list anything for barter; therefore this limitation is not even touched upon or suggested in Postrel. All of Postrel’s surrendered points would have to equal those points available to be used by the user of the system.

Therefore, Postrel does not teach or suggest each and every limitation of claim 212. For at least the above reasons claim 212 is in condition for allowance. Claims 213-223 are also in condition for allowance by virtue of their dependence upon an allowable base claim 212.

27. Claim 213

Dependent claim 213 further recites wherein the system groups items of a particular kind together and offers to consumer users only one available item of each particular kind. The Office Action suggests that page 5, paragraph 47 of Postrel teaches this limitation. However that section of Postrel merely points out that merchandisers can list products. It does not indicate that a consumer can list a product and it doesn’t suggest that only one listing of that product will be offered by the system. Indeed, it would appear in Postrel that multiple merchandisers can each list the same product. There the system of Postrel would not offer to consumers only one available item of each particular kind. Therefore, for at least this additional reason claim 213 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

28. Claim 214

Dependent claim 214 further recites that an item is determined to be of a particular kind by reference to the International Standard Book Number. Postrel has no mention of using ISBNs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 214 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

29. Claim 215

Dependent claim 215 further recites that an item is determined to be of a particular kind by reference to the Universal Product Code. Postrel has no mention of using UPCs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 215 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above

30. Claim 216

Dependent claim 216 further recites that the one available item offered is the earliest one entered into said inventory. This limitation is neither taught nor suggested by Postrel. The Office Action suggests that such a first in/ first out grouping of items would have been obvious, but provides no motivation or rational for modifying Postrel to perform this activity. This is improper grounds for rejection and for at least this additional reason claim 216 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

31. Claim 217

Dependent claim 217 further recites that listing an item creates no immediate obligation on the part of the consumer user to surrender the item. This limitation is neither taught nor suggested by Postrel. Postrel requires that listing the points will surrender the points. See FIG. 6 of Postrel. For at least this additional reason claim 217 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

32. Claim 219

Dependent claim 219 further recites that a consumer user's unused credits are transferred to the system when the consumer user's account is closed. This limitation is neither taught nor suggested by Postrel. The Office Action states that performing such an activity would have been obvious; however the Office Action provides no rationale for why this would have been the case. This is an improper *prima facie* case for obviousness. For at least this additional reason claim 219 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

33. Claim 224

Independent claim 224:

224. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a consumer user entering one or more items to be swapped into an inventory of an electronic barter system, wherein only items listed in one or more lookup databases may be entered;

the electronic barter system determining and awarding to said consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying to a first consumer user at least one item that has been listed on said electronic barter system that may be desirous to said first consumer user, wherein the electronic barter system groups items of a particular kind together and offers to the first user only one available item of each particular kind, where the particular kind is determined by reference to said one or more lookup databases and where all items of a particular kind are assigned the same number of credits;

the first consumer user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item; and

the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user.

Claim 224 is allowable for many of the same reasons that claims 63, 188, 200 and 212 discussed in subsections 1, 11, 19 and 26 above, were indicated as being allowable in view of Postrel. That is to say, Postrel does not disclose having “consumer user entering one or more items to be swapped into an inventory of an electronic barter system, wherein only items listed in one or more lookup databases may be entered.” As discussed above, Postrel simply does not have a consumer listing items to facilitate consumer to consumer commerce. The consumer in Postrel at no time lists an item for barter. At no time does the system in Postrel determine and award a consumer credit for an item listed for barter.

Additionally, as noted above with respect to claims 63, 188, 200 and 212, Postrel does not have a system where “the electronic barter system determin[es] and award[s] to said consumer user an amount of barter credit for said listed item(s).” The system and method disclosed by Postrel has a number of outside businesses that provide the credit [i.e. the awarding of points]. Indeed, the user in Postrel is not listing an item but is instead providing the means to access the points data that has already been awarded to him or her, so as to accumulate and use those points.

Furthermore, Postrel does not disclose the limitation of “wherein the electronic barter system groups items of a particular kind together and offers to the first user only one available item of each particular kind, where the particular kind is determined by reference to said one or more lookup databases and where all items of a particular kind are assigned the same number of credits.” Postrel does not suggest listing only one item of a particular kind or having all items of that kind assigned the same number of credits. In Postrel, at paragraph [0032], it is merely suggested that a merchant may list items for a user to obtain. It does not limit the items to a particular kind or limit assigning the same item the same number of credits. Therefore this limitation is not even touched upon or suggested in Postrel.

The Office Action acknowledges the failure of Postrel to teach this limitation, however it suggests that “it is well-known to organize inventory into categories in a lookup database (e-Bay, for example) and it would be a matter of design to require entry of items into a given category within the database.” See The Office Action, Page 4. This statement provides no rationale or reasoning as to why one would modify Postrel in order to meet the limitations of the claim. The Examiner is simply suggesting that it is simply a matter of design. This is faulty logic. The Office Action does not even attempt to address the limitation of assigning the same number of credits to each item listed, something that is unique to the Applicant’s bartering system, and something that is not contemplated in Postrel, or even in E-Bay’s framework for listing items (which lists more than one item of a type for various costs).

Therefore, Postrel does not teach or suggest each and every limitation of claim 224. For at least the above reasons claim 224 is in condition for allowance. Claims 225-234 are also in condition for allowance by virtue of their dependence upon an allowable base claim 225.

34. Claim 225

Dependent claim 225 further recites that an item is determined to be of a particular kind by reference to the International Standard Book Number. Postrel has no mention of using ISBNs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 225 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

35. Claim 226

Dependent claim 226 further recites that an item is determined to be of a particular kind by reference to the Universal Product Code. Postrel has no mention of using UPCs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 226 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

36. Claim 227

Dependent claim 227 further recites that listing an item creates no immediate obligation on the part of the consumer user to surrender said item. This limitation is neither taught nor suggested by Postrel. Postrel requires that listing the points will surrender the points. See FIG. 6 of Postrel. For at least this additional reason claim 227 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

37. Claim 229

Dependent claim 229 further recites that a “user’s unused credits [are] not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered.” Postrel does not list anything for barter, therefore this limitation is not even touched upon or suggested in Postrel. In Postrel the total points remaining would have to be equal to the total initial points that were entered into the system by the user. See Paragraph [0031] of Postrel. For at least this additional reason claim 229 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

38. Claim 231

Dependent claim 231 further recites that a consumer user’s unused credits are transferred to the system when said consumer user’s account is closed. This limitation is neither taught nor suggested by Postrel. The Office Action states that performing such an activity would have been obvious; however the Office Action provides no rationale for why this would have been the case. This is an improper *prima facie* case for obviousness. For at least this additional reason claim 231 is in condition for allowance, as well as for being dependent upon the allowable claim s discussed above.

39. Claim 235

Independent claim 235:

235. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other user(s) that may be desirous to said first consumer user;

the first consumer user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, wherein said first consumer user may acquire an item from another consumer user where it is not required that said other consumer user acquire any item from said first consumer user.

Claim 235 is allowable for many of the same reasons that claims 63, 188, 200, 212 and 224 discussed in subsections 1, 11, 19, 26 and 33 above, were indicated as being allowable in view of Postrel. That is to say, Postrel does not disclose having “a first consumer user listing item(s) on the electronic barter system” or “the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user.” As discussed above, Postrel simply does not have a consumer listing items to facilitate consumer to consumer commerce. The consumer in Postrel at no time lists an item for barter. At no time does the system in Postrel determine and award a consumer credit for an item listed for barter.

Additionally, as noted above with respect to claims 63, 188, 200, 212 and 224, Postrel does not have a system where “the electronic barter system determin[es] and award[s] to said first consumer user an amount of barter credit for said listed item(s).” The system and method disclosed by Postrel has a number of outside businesses that provide the credit [i.e. the awarding of points]. The user in Postrel is not listing an item but is instead providing the means to access

the points data that has already been awarded to him or her, so as to accumulate and use those points.

Therefore, Postrel does not teach or suggest each and every limitation of claim 235. For at least the above reasons claim 235 is in condition for allowance. Claims 236-246 are also in condition for allowance by virtue of their dependence upon an allowable base claim 235.

40. Claim 236

Dependent claim 236 further recites wherein the system groups items of a particular kind together and offers to consumer users only one available item of each particular kind. The Office Action suggests that page 5, paragraph 47 of Postrel teaches this limitation. However that section of Postrel merely points out that merchandisers can list products. It does not indicate that a consumer can list a product and it doesn't suggest that only one listing of that product will be offered by the system. Indeed, it would appear in Postrel that multiple merchandisers can each list the same product. There the system of Postrel would not offer to consumers only one available item of each particular kind. Therefore, for at least this additional reason claim 236 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

41. Claim 237

Dependent claim 237 further recites that an item is determined to be of a particular kind by reference to the International Standard Book Number. Postrel has no mention of using ISBNs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 237 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

42. Claim 238

Dependent claim 238 further recites that an item is determined to be of a particular kind by reference to the Universal Product Code. Postrel has no mention of using UPCs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 238 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

43. Claim 239

Dependent claim 239 further recites that said one available item offered is the earliest one entered into said inventory. This limitation is neither taught nor suggested by Postrel. The Office Action suggests that such a first in/ first out grouping of items would have been obvious, but provides no motivation or rationale for modifying Postrel to perform this activity. This is improper grounds for rejection and for at least this additional reason claim 239 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

44. Claim 240

Dependent claim 240 further recites that listing an item creates no immediate obligation on the part of the consumer user to surrender said item. This limitation is neither taught nor suggested by Postrel. Postrel requires that listing the points will surrender the points. See FIG. 6 of Postrel. For at least this additional reason claim 240 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

45. Claim 242

Dependent claim 242 further recites that a “user’s unused credits [are] not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered.” Postrel does not list anything for barter, therefore this limitation is not even touched upon or suggested in Postrel. In Postrel the total points remaining would have to be equal to the total initial points that were entered into the system by the user. See Paragraph [0031] of Postrel. For at least this additional reason claim 242 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

46. Claim 243

Dependent claim 243 further recites that a consumer user’s unused credits are transferred to the system when said consumer user’s account is closed. This limitation is neither taught nor suggested by Postrel. The Office Action states that performing such an activity would have been obvious; however the Office Action provides no rationale for why this would have been the case. This is an improper *prima facie* case for obviousness. For at least this additional reason claim 243 is in condition for allowance, as well as for being dependent upon the allowable claim s discussed above.

47. Claim 247

Independent claim 247:

247. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first consumer user;

the first user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user; and

wherein said method comprises the electronic barter system estimating the cost of postage required to ship the item.

Claim 247 is allowable for many of the same reasons that claims 63, 188, 200, 212, 224 and 237 discussed in subsections 1, 11, 19, 26, 33 and 39 above, were indicated as being allowable in view of Postrel. That is to say, Postrel does not disclose having “a first consumer user listing item(s) on the electronic barter system” or “the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user.” As discussed above, Postrel simply does not have a consumer listing items to facilitate consumer to consumer commerce. The consumer in Postrel at no time lists an item for barter. At no time does the system in Postrel determine and award a consumer credit for an item listed for barter.

Additionally, as noted above with respect to claims 63, 188, 200, 212, 224 and 237, Postrel does not have a system where “the electronic barter system determin[es] and award[s] to said first consumer user an amount of barter credit for said listed item(s).” The system and method disclosed by Postrel has a number of outside businesses that provide the credit [i.e. the

awarding of points]. The user in Postrel is not listing an item but is instead providing the means to access the points data that has already been awarded to him or her, so as to accumulate and use those points.

Furthermore, Postrel does not teach the limitation of having [an] “electronic barter system estimating the cost of postage required to ship the item.” The section of Postrel referred to by the Office Action points to Paragraph 49, where it states that one may “contract for the delivery of the product.” This is not the same as estimating the cost of postage required to ship the item. The Office Action suggests that this limitation is contained within the concept of contracting for the delivery of the product, but does not provide any further rationale as to why this would be and further neglects the fact that in the process of contracting for delivery of a product the merchant, not the system, is determining postage costs. This is done within the system in Applicant’s invention in order to facilitate bartering. See Page 31 of the Specification.

Therefore, Postrel does not teach or suggest each and every limitation of claim 247. For at least the above reasons claim 247 is in condition for allowance. Claims 248 and 249 are also in condition for allowance by virtue of their dependence upon an allowable base claim 247.

48. Claim 248

Dependent claim 248 further recites that “the system notif[ies] the consumer user as to the cost of postage required to ship the item.” Postrel does not teach this since the system in Postrel is not determining the postage, instead the merchant is determining the postage. The Office Action provides no motivation or suggestion as to why Postrel would be modified to meet this limitation. For at least this additional reason claim 248 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

49. Claim 249

Dependent claim 249 further recites that the “method further comprises compensating the user for at least a portion of the cost of postage required to ship the item.” Postrel does not teach

this since the system in Postrel is not determining the postage, instead the merchant is determining the postage. Furthermore, there is no suggestion of providing partial compensation for postage in Postrel. The Office Action provides no motivation or suggestion as to why Postrel would be modified to meet this limitation. For at least this additional reason claim 249 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

50. Claim 250

Independent claim 250:

250. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first consumer user;

the first user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user; and

the electronic system monitoring user compliance with at least one consumer user obligation; and the system determining whether the consumer user may continue using the system in response to said monitoring.

Claim 250 is allowable for many of the same reasons that claims 63, 188, 200, 212, 224, 237 and 247 discussed in subsections 1, 11, 19, 26, 33, 39 and 47 above, were indicated as being allowable in view of Postrel. That is to say, Postrel does not disclose having “a first consumer user listing item(s) on the electronic barter system” or “the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user.” As discussed above, Postrel simply does not have a consumer listing items to facilitate consumer to consumer commerce. The consumer in Postrel at no time lists an item for barter. At no time does the system in Postrel determine and award a consumer credit for an item listed for barter.

Additionally, as noted above with respect to claims 63, 188, 200, 212, 224, 237 and 247 Postrel does not have a system where “the electronic barter system determin[es] and award[s] to said first consumer user an amount of barter credit for said listed item(s).” The system and method disclosed by Postrel has a number of outside businesses that provide the credit [i.e. the awarding of points]. The user in Postrel is not listing an item but is instead providing the means to access the points data that has already been awarded to him or her, so as to accumulate and use those points.

Furthermore, Postrel not does teach the limitation of having “the electronic system monitoring user compliance with at least one consumer user obligation; and the system determining whether the consumer user may continue using the system in response to said monitoring.” The section of Postrel referred to by the Office Action points to Paragraph [0016] and paragraph [0033], where it states that “policies may be established to automatically contact each of the reward servers.” This is not the same as monitoring the system. The Office Action seems to suggest that monitoring is well known to be part of policies, but provides no evidence to support this position, except for his mention that E-Bay has policies. While it may be true that

E-Bay has policies, the Office Action actually fails to provide any motivation or rationale as to why one would be modifying Postrel in order to arrive at something similar to the Applicant's claimed invention. The Office Action is instead merely states the existence of various things but fails to actually establish a *prima facie* case for obviousness.

Therefore, Postrel does not teach or suggest each and every limitation of claim 250. For at least the above reasons claim 250 is in condition for allowance. Claims 251 and 252 are also in condition for allowance by virtue of their dependence upon an allowable base claim 2250.

51. Claim 251

Dependent claim 251 further recites that the "step of monitoring [the] consumer user compliance comprises monitoring whether the consumer user has shipped an item of at least a specified minimum quality." Postrel does not teach this since the system in Postrel is not monitoring the consumer, let alone the quality of a shipped item. The Office Action provides no motivation or suggestion as to why Postrel would be modified to meet this limitation. For at least this additional reason claim 251 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

52. Claim 252

Dependent claim 252 further recites that the "step of monitoring [the] consumer user compliance comprises monitoring whether the consumer user has shipped an item in timely fashion." Postrel does not teach this since the system in Postrel is not monitoring the consumer, let alone the timeliness of a shipped item. The Office Action provides no motivation or suggestion as to why Postrel would be modified to meet this limitation. For at least this additional reason claim 252 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

53. Claim 253

Independent claim 253:

253. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user entering one or more items to be swapped into an inventory of an electronic barter system, wherein only items listed in one or more lookup databases may be entered;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first consumer user;

the first consumer user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item;

wherein the electronic barter system communicates a request to the consumer user who listed the desired item that the consumer user who listed the desired item surrenders said desired item;

wherein a consumer user's unused credits is not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered;

wherein said first consumer user may acquire an item from another consumer user where it is not required that said other consumer user acquire any item from said first consumer user;

wherein said method comprises the electronic barter system estimating the cost of postage required to ship the item; and

wherein the electronic system monitors consumer user compliance with at least one consumer user obligation; and the system determines whether the consumer user may continue using the system in response to said monitoring.

Claim 250 is allowable for many of the same reasons that claims 63, 188, 200, 212, 224, 237, 247 and 250 discussed in subsections 1, 11, 19, 26, 33, 39, 47 and 50 above, were indicated as being allowable in view of Postrel. That is to say, Postrel does not disclose having “a first consumer user listing item(s) on the electronic barter system” or “the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user.” As discussed above, Postrel simply does not have a consumer listing items to facilitate consumer to consumer commerce. The consumer in Postrel at no time lists an item for barter. At no time does the system in Postrel determine and award a consumer credit for an item listed for barter.

Additionally, as noted above with respect to claims 63, 188, 200, 212, 224, 237, 247 and 250 Postrel does not have a system where “the electronic barter system determin[es] and award[s] to said first consumer user an amount of barter credit for said listed item(s).” The system and method disclosed by Postrel has a number of outside businesses that provide the credit [i.e. the awarding of points]. The user in Postrel is not listing an item but is instead providing the means to access the points data that has already been awarded to him or her, so as to accumulate and use those points.

Also, claim 253 further recites that a “user’s unused credits [are] not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered.” Postrel does not list anything for barter; therefore this limitation is not even touched upon or suggested in Postrel. In Postrel the total points remaining would have to be equal to the total initial points that were entered into the system by the user. See Paragraph [0031] of Postrel.

Also, as noted above with respect to claim 247, Postrel does not teach the limitation of having “electronic barter system estimating the cost of postage required to ship the item.” The section of Postrel referred to by the Office Action points to Paragraph 49, where it states that one may “contract for the delivery of the product.” This is not the same as estimating the cost of postage required to ship the item. The Office Action suggests that this limitation is contained within the concept of contracting for the delivery of the product, but does not provide any further rationale as to why this would be and further neglects the fact that in the process of contracting for delivery of a product the merchant, not the system, is determining postage costs. This is done in the system in Applicant’s invention in order to facilitate bartering. See Page 31 of the Specification.

Furthermore, as noted above with respect to claim 250, Postrel not does teach the limitation of having “the electronic system monitoring user compliance with at least one consumer user obligation; and the system determining whether the consumer user may continue using the system in response to said monitoring.” The section of Postrel referred to by the Office Action points to Paragraph [0016] and paragraph [0033], where it states that “policies may be established to automatically contact each of the reward servers.” This is not the same as monitoring the system. The Office Action seems to suggest that monitoring is well known to be part of policies, but provides no evidence to support this position, except for his mention that E-Bay has policies. While it may be true that E-Bay has policies, the Office Action actually fails to provide any motivation or rationale as to why one would be modifying Postrel in order to arrive at something similar to the Applicant’s claimed invention. The Office Action is instead merely states the existence of various things but fails to actually establish a *prima facie* case for obviousness.

Therefore, Postrel does not teach or suggest each and every limitation of claim 253. For at least the above reasons claim 253 is in condition for allowance. Claims 254 and 263 are also in condition for allowance by virtue of their dependence upon allowable base claim 253.

54. Claim 254

Dependent claim 254 further recites wherein the system groups items of a particular kind together and offers to consumer users only one available item of each particular kind. The Office Action suggests that page 5, paragraph 47 of Postrel teaches this limitation. However that section of Postrel merely points out that merchandisers can list products. It does not indicate that a consumer can list a product and it doesn't suggest that only one listing of that product will be offered by the system. Indeed, it would appear in Postrel that multiple merchandisers can each list the same product. There the system of Postrel would not offer to consumers only one available item of each particular kind. Therefore, for at least this additional reason claim 254 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above

55. Claim 255

Dependent claim 255 further recites that an item is determined to be of a particular kind by reference to the International Standard Book Number. Postrel has no mention of using ISBNs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 255 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

56. Claim 256

Dependent claim 256 further recites that an item is determined to be of a particular kind by reference to the Universal Product Code. Postrel has no mention of using UPCs and the Office Action simply suggests that doing so would have been obvious without offering any reason or rationale. Such grounds for an obviousness type rejection are improper. For at least this additional reason claim 256 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

57. Claim 257

Dependent claim 257 further recites that the one available item offered is the earliest one entered into said inventory. This limitation is neither taught nor suggested by Postrel. The Office Action suggests that such a first in/ first out grouping of items would have been obvious, but provides no motivation or rationale for modifying Postrel to perform this activity. This is improper grounds for rejection and for at least this additional reason claim 257 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

58. Claim 258

Dependent claim 258 further recites that listing an item creates no immediate obligation on the part of the consumer user to surrender the item. This limitation is neither taught nor suggested by Postrel. Postrel requires that listing the points will surrender the points. See FIG. 6 of Postrel. For at least this additional reason claim 258 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

59. Claim 260

Dependent claim 260 further recites that a consumer user's unused credits are transferred to the system when the consumer user's account is closed. This limitation is neither taught nor suggested by Postrel. The Office Action states that performing such an activity would have been obvious; however the Office Action provides no rationale for why this would have been the case. This is an improper *prima facie* case for obviousness. For at least this additional reason claim 260 is in condition for allowance, as well as for being dependent upon the allowable claims discussed above.

For the foregoing reasons, Appellant respectfully submits that each of the rejections should be reversed, and all claims allowed, and such a decision is respectfully solicited.

Respectfully submitted,

/Tod A. Kupstas/

Date: October 26, 2007

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VIII. APPENDIX- CLAIMS ON APPEAL

1-62 (Canceled)

63. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

 a first consumer user listing item(s) on the electronic barter system;

 the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

 the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first user;

 the first consumer user selecting a desired item via the electronic barter system;

 the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user; and

 the electronic barter system communicating a request to the consumer user who listed the desired item that the consumer user who listed the desired item surrender said desired item.

64. (Withdrawn) The method of claim 63, wherein the system maintains a balance between the combined barter credit of all items of inventory and the total barter credit of all consumer users combined.

65. (Withdrawn) The method of claim 63, wherein the balance is maintained such that any time an item is removed from the inventory of the system, the equivalent amount of barter credit must also be removed from one or more consumer users.

66. (Withdrawn) The method of claim 64, wherein the balance is maintained by a removed inventory item being replaced by one or more items of combined equivalent value in barter credit.

67. (Withdrawn) The method of claim 64, wherein the balance is maintained by a removed inventory item being replaced by one or more items of equivalent or greater value in barter credit wherein, if greater, the excess barter credit is provided to one or more consumer users.

68. (Withdrawn) The method of claim 63, wherein said items are selected from the group consisting of books, audiobooks, compact disks, DVDs, consumer software and videos.

69. The method of claim 63, wherein said system further provides one or more incentives to a consumer user who purchases an item and lists said item.

70. (Withdrawn) The method of claim 69, wherein said item is a new or used item purchased from the system.

71. (Withdrawn) The method of claim 69, wherein said purchased item must be listed within a predetermined time after purchase.

72. (Withdrawn) The method of claim 69, wherein the incentive is monetary.

73. (Withdrawn) The method of claim 69, wherein the incentive is the reduction in the cost of an item for sale.

74. (Withdrawn) The method of claim 69, wherein the incentive is a gift certificate.

75. (Withdrawn) The method of claim 69, wherein the incentive is barter credit.

76. (Withdrawn) The method of claim 63, wherein acquiring an item will neither dilute nor enhance the value of the barter credit of users not involved in said acquisition.

77. (Withdrawn) The method of claim 63, wherein the barter credit a consumer user must use to acquire an item is the same amount of barter credit provided to the consumer user who listed said item.

78. (Withdrawn) The method of claim 63, wherein the barter credit provided to a consumer user for listing items is placed into an account for said consumer user.

79. (Withdrawn) The method of claim 78, wherein the barter credit used by a consumer user to acquire an item is deducted from said consumer user's account.

80. (Withdrawn) The method of claim 63, wherein the barter credit provided for listing an item is determined by the system depending on one or more of said item's characteristics.

81. (Withdrawn) The method of claim 80, wherein said characteristics are determined by reference to one or more databases.

82. (Withdrawn) The method of claim 80, wherein at least one factor used to determine said barter credit is information indicative of the quality of said item.

83. (Withdrawn) The method of claim 63, wherein all items must be of a predetermined minimum quality.

84. (Withdrawn) The method of claim 63, wherein certain items must be of a predetermined minimum quality.

85. (Withdrawn) The method of claim 63, wherein items are listed by reference to the International Standard Book Number.

86. (Withdrawn) The method of claim 63, wherein items are listed by reference to the Universal Product Code.

87. The method of claim 63, wherein the system groups items of a particular kind together and offers to consumer users only one available item of each particular kind.

88. The method of claim 87, wherein an item is determined to be of a particular kind by reference to the International Standard Book Number.

89. The method of claim 87, wherein an item is determined to be of a particular kind by reference to the Universal Product Code.

90. The method of claim 87, wherein said one available item offered is the earliest one listed.

91. (Withdrawn) The method of claim 63, wherein said items are selected from the group consisting of tangible and intangible forms of movies, music and writings.

92. (Withdrawn) The method of claim 63, wherein said items are intangible.

93. (Withdrawn) The method of claim 63, wherein consumer users enter items into said inventory by choosing from items in one or more databases.

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94. (Withdrawn) The method of claim 63, wherein consumer users are not permitted to input the attributes of an item they list.
95. (Withdrawn) The method of claim 63, wherein consumer users are permitted to input certain attributes of an item they list.
96. (Withdrawn) The method of claim 63, wherein users choose which attributes they may input of an item they list.
97. (Withdrawn) The method of claim 63, wherein after a period has elapsed from when an item was listed and said item has not been acquired by a consumer user, said item is removed from the system.
98. (Withdrawn) The method of claim 63, wherein after a period has elapsed from when an item was listed and said item has not been acquired by a consumer user, the barter credit provided is reduced for said item.
99. (Withdrawn) The method of claim 98, wherein said the amount by which said barter credit is reduced is removed from one or more consumer users.
100. (Withdrawn) The method of claim 98, wherein the system reduces said barter credit for said item.

101. (Withdrawn) The method of claim 98, wherein the system requires the consumer user who entered said item to reduce said barter credit.

102. (Withdrawn) The method of claim 63, wherein the system permits a consumer user to list an item wherein said consumer user may allow other users to choose whether to purchase said item or to use barter credit to acquire said item.

103. (Withdrawn) The method of claim 102, wherein the system sets the purchase price for said item as a constant determined by the system multiplied by the barter credit for said item.

104. (Canceled)

105. (Withdrawn) The method of claim 102, wherein, if an item is purchased, the barter credit which was provided for said item when said item was listed is removed from one or more consumer users.

106. (Withdrawn) The method of claim 102, wherein, if an item is purchased, the barter credit which was provided for said item when said item was listed is removed from the consumer user who listed said item.

107. (Withdrawn) The method of claim 106, wherein if the consumer user who listed said item does not have sufficient unused barter credit to be removed, said consumer user must list one or more items of equal or greater barter credit value of said item, wherein if greater, the excess barter credit will be provided to said consumer user.

108. (Withdrawn) The method of claim 106, wherein if said consumer user does not have sufficient unused barter credit to be removed, said user forfeits the purchase price.

109. (Withdrawn) The method of claim 106, wherein if said consumer user does not have sufficient unused barter credit to be removed, said consumer user forfeits a portion of the purchase price to the extent the barter credit removed is less than the barter credit provided when said item was listed.

110. The method of claim 63, wherein listing an item creates no immediate obligation on the part of the consumer user to surrender said item.

111. (Canceled)

112. The method of claim 63, wherein a consumer user's unused barter credit is not required to be equal to the combined barter credit of all inventory items listed by said consumer user which have not been surrendered.

113. The method of claim 63, wherein the system determines when the consumer user must surrender an item.

114. (Canceled)

115. The method of claim 63, wherein a consumer user's unused barter credit is transferred to the system when said consumer user's account is closed.

116. The method of claim 63, wherein the system is Internet based.

117. (Canceled)

118. The method of claim 63, wherein communication between said consumer users and said system is at least partially conducted using a telephone.

119. The method of claim 63, wherein communication between said consumer users and said system is at least partially conducted using a wireless telephone.

120. The method of claim 63, wherein communication between said consumer users and said system is at least partially conducted using a portable communications device.

121-187 (Canceled)

188. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other user(s) that may be desirous to said first consumer user;

the first consumer user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user;

wherein the electronic barter system determines at least one condition under which a consumer user must give up possession of an item; and

the electronic barter system communicating a request to the consumer user who listed the desired item that the consumer user who listed the desired item surrender said desired item under the at least one condition that was determined by the electronic barter system.

189. The method of claim 188, wherein the barter system groups items of a particular kind together and offers to consumer users only one available item of each particular kind.

190. The method of claim 189, wherein an item is determined to be of a particular kind by reference to the International Standard Book Number.

191. The method of claim 189, wherein an item is determined to be of a particular kind by reference to the Universal Product Code.

192. The method of claim 189, wherein said one available item offered is the earliest one entered into said inventory.

193. The method of claim 188, wherein entering an item into said inventory creates no immediate obligation on the part of the consumer user to surrender said item.

194. The method of claim 188, wherein there is more than one inventory.

195. The method of claim 188, wherein a consumer user's unused credits is not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered.

196. The method of claim 188, wherein a consumer user's unused credits are transferred to the system when said consumer user's account is closed.

197. The method of claim 188, wherein the electronic barter system is Internet based.

198. The method of claim 188, wherein communication between said consumer users and said system is at least partially conducted using a telephone.

199. The method of claim 188, wherein communication between said consumer users and said system is at least partially conducted using a portable communications device.

200. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

 a first consumer user listing item(s) on the electronic barter system;

 the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

 the electronic barter system identifying at least one item that has been listed on said electronic barter system by other user(s) that may be desirous to said first consumer user;

 the first consumer user selecting a desired item via the electronic barter system;

 the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user;

 wherein the electronic system determines when a consumer user must give up possession of an item; and

wherein a consumer user's unused credits is not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered.

201. The method of claim 200, wherein the electronic barter system groups items of a particular kind together and offers to consumer users only one available item of each particular kind.

202. The method of claim 201, wherein an item is determined to be of a particular kind by reference to the International Standard Book Number.

203. The method of claim 201, wherein an item is determined to be of a particular kind by reference to the Universal Product Code.

204. The method of claim 200, wherein said one available item offered is the earliest one entered into said inventory.

205. The method of claim 200, wherein entering an item into said inventory creates no immediate obligation on the part of the user to surrender said item.

206. The method of claim 200, wherein there is more than one inventory.

207. The method of claim 200, wherein a consumer user's unused credits are transferred to the system when said consumer user's account is closed.

209. The method of claim 200, wherein the system is Internet based.

210. The method of claim 200, wherein communication between said consumer users and said system is at least partially conducted using a telephone.

211. The method of claim 200, wherein communication between said consumer users and said system is at least partially conducted using a portable communications device.

212. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

 a first consumer user listing item(s) on the electronic barter system;

 the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

 the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirable to said first consumer user;

 the first user selecting a desired item via the electronic barter system;

 the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item;

the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user; and

where a consumer user's unused credits is not required to be equal to the combined total credits of all inventory items entered by said user which have not been surrendered.

213. The method of claim 212, wherein the electronic barter system groups items of a particular kind together and offers to users only one available item of each particular kind.

214. The method of claim 213, wherein an item is determined to be of a particular kind by reference to the International Standard Book Number.

215. The method of claim 213, wherein an item is determined to be of a particular kind by reference to the Universal Product Code.

216. The method of claim 212, wherein said one available item offered is the earliest one entered into said inventory.

217. The method of claim 212, wherein entering an item into said inventory creates no immediate obligation on the part of the user to surrender said item.

218. The method of claim 212, wherein there is more than one inventory.

219. The method of claim 212, wherein a consumer user's unused credits are transferred to the electronic system when said consumer user's account is closed.

220. The method of claim 212, wherein the system determines when a consumer user must give up possession of an item.

221. The method of claim 212, wherein the system is Internet based.

222. The method of claim 212, wherein communication between said consumer users and said system is at least partially conducted using a telephone.

223. The method of claim 212, wherein communication between said consumer users and said system is at least partially conducted using a portable communications device.

224. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a consumer user entering one or more items to be swapped into an inventory of an electronic barter system, wherein only items listed in one or more lookup databases may be entered;

the electronic barter system determining and awarding to said consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying to a first consumer user at least one item that has been listed on said electronic barter system that may be desirable to said first consumer user, wherein the electronic barter system groups items of a particular kind together and offers to the first user only one available item of each particular kind, where the particular kind is determined by reference to said one or more lookup databases and where all items of a particular kind are assigned the same number of credits;

the first consumer user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item; and

the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user.

225. The method of claim 224, wherein an item is determined to be of a particular kind by reference to the International Standard Book Number.

226. The method of claim 224, wherein an item is determined to be of a particular kind by reference to the Universal Product Code.

227. The method of claim 224, wherein entering an item into said inventory creates no immediate obligation on the part of the consumer user to surrender said item.

228. The method of claim 224, wherein there is more than one inventory.

229. The method of claim 225, wherein a user's unused credits is not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered.

230. The method of claim 224, wherein a consumer user may acquire an item from another consumer user where it is not required that said other user acquire any item from said consumer user.

231. The method of claim 224, wherein a consumer user's unused credits are transferred to the system when said consumer user's account is closed.

235. The method of claim 224, wherein the electronic barter system is Internet based.

233. The method of claim 224, wherein communication between said consumer users and said electronic barter system is at least partially conducted using a telephone.

234. The method of claim 224, wherein communication between said consumer users and said electronic barter system is at least partially conducted using a portable communications device.

235. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other user(s) that may be desirous to said first consumer user;

the first consumer user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, wherein said first consumer user may acquire an item from another consumer user where it is not required that said other consumer user acquire any item from said first consumer user.

236. The method of claim 235, wherein the system groups items of a particular kind together and offers to consumer users only one available item of each particular kind.

237. The method of claim 236, wherein an item is determined to be of a particular kind by reference to the International Standard Book Number.

238. The method of claim 236, wherein an item is determined to be of a particular kind by reference to the Universal Product Code.

239. The method of claim 235, wherein said one available item offered is the earliest one entered into said inventory.

240. The method of claim 235, wherein entering an item into said inventory creates no immediate obligation on the part of the consumer user to surrender said item.

241. The method of claim 235, wherein there is more than one inventory.

242. The method of claim 235, wherein a consumer user's unused credits is not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered.

243. The method of claim 235, wherein a consumer user's unused credits are transferred to the system when said consumer user's account is closed.

244. The method of claim 235, wherein the system is Internet based.

245. The method of claim 235, wherein communication between said consumer users and said system is at least partially conducted using a telephone.

246. The method of claim 238, wherein communication between said consumer users and said system is at least partially conducted using a portable communications device.

247. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first consumer user;

the first user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user; and

wherein said method comprises the electronic barter system estimating the cost of postage required to ship the item.

248. A method according to claim 247, wherein said method further comprises the system notifying the consumer user as to the cost of postage required to ship the item.

249. A method according to claim 247, wherein said method further comprises compensating the user for at least a portion of the cost of postage required to ship the item.

250. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

a first consumer user listing item(s) on the electronic barter system;

the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first consumer user;

the first user selecting a desired item via the electronic barter system;

the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item, the electronic barter system permitting the first consumer user to acquire an item from another consumer user where it is not required that the other consumer user acquire any item from the first consumer user; and

the electronic system monitoring user compliance with at least one consumer user obligation; and the system determining whether the consumer user may continue using the system in response to said monitoring.

251. A method according to claim 250, wherein said step of monitoring consumer user compliance comprises monitoring whether the consumer user has shipped an item of at least a specified minimum quality.

252. A method according to claim 250, wherein said step of monitoring consumer user compliance comprises monitoring whether the consumer user has shipped an item in timely fashion.

253. A method of operating an electronic barter system for facilitating consumer to consumer bartering transactions, comprising:

 a first consumer user entering one or more items to be swapped into an inventory of an electronic barter system, wherein only items listed in one or more lookup databases may be entered;

 the electronic barter system determining and awarding to said first consumer user an amount of barter credit for said listed item(s);

 the electronic barter system identifying at least one item that has been listed on said electronic barter system by other consumer user(s) that may be desirous to said first consumer user;

 the first consumer user selecting a desired item via the electronic barter system;

 the electronic barter system permitting at least a portion of said barter credit to be used by said first consumer user toward the acquisition of said desired item;

 wherein the electronic barter system communicates a request to the consumer user who listed the desired item that the consumer user who listed the desired item surrenders said desired item;

wherein a consumer user's unused credits is not required to be equal to the combined total credits of all inventory items entered by said consumer user which have not been surrendered;

wherein said first consumer user may acquire an item from another consumer user where it is not required that said other consumer user acquire any item from said first consumer user;

wherein said method comprises the electronic barter system estimating the cost of postage required to ship the item; and

wherein the electronic system monitors consumer user compliance with at least one consumer user obligation; and the system determines whether the consumer user may continue using the system in response to said monitoring.

254. The method of claim 253, wherein the system groups items of a particular kind together and offers to consumer users only one available item of each particular kind.

255. The method of claim 254, wherein an item is determined to be of a particular kind by reference to the International Standard Book Number.

256. The method of claim 254, wherein an item is determined to be of a particular kind by reference to the Universal Product Code.

257. The method of claim 254, wherein said one available item offered is the earliest one entered into said inventory.

258. The method of claim 253, wherein entering an item into said inventory creates no immediate obligation on the part of the consumer user to surrender said item.

259. The method of claim 253, wherein there is more than one inventory.

260. The method of claim 253, wherein a consumer user's unused credits are transferred to the system when said user's account is closed.

261. The method of claim 253, wherein the system is Internet based.

262. The method of claim 253, wherein communication between said consumer users and said system is at least partially conducted using a telephone.

263. The method of claim 253, wherein communication between said consumer users and said system is at least partially conducted using a portable communications device.

IX. EVIDENCE APPENDIX

There have been no submissions of evidence under 37 C.F.R. §§ 1.130, 1.131 or 1.132 in this application.

X. RELATED PROCEEDINGS APPENDIX

There have been no related decisions rendered by a court or the USPTO Board of Appeal and Interferences in this matter.